

Canada

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Freedom of the Press

Canada's 1982 constitution guarantees freedom of expression and freedom of the press. The government may legally restrict free speech with the aim of ending discrimination, ensuring social harmony, or promoting gender equality, but the definition of hate speech, which is punishable by law, remains vague. In November 2010, the Supreme Court began hearing the case *Saskatchewan Human Rights Commission v. William Whatcott*, in which a provincial human rights tribunal found Christian activist William Whatcott's flyers and messages against homosexuality to be in violation of the Saskatchewan Human Rights Code for exposing groups or individuals to hatred. The Supreme Court in a February 2013 ruling narrowed the legal definition of "hatred" but upheld the code's concept of hate speech as any representation or expression "that exposes or tends to expose" hatred to certain groups. The court affirmed that prohibiting such speech protects discriminated groups' ability to express themselves. The ruling was highly controversial, with most media outlets condemning it as a threat to freedom of expression in Canada.

Other legal threats to free speech occur occasionally. In February 2012, the government introduced Bill C-30, which would permit law enforcement agencies to monitor the digital activity of internet users via their service providers without a warrant. In response to a heavy backlash, the justice minister announced in February 2013 that the bill would not proceed. While technically a piece of labor legislation, the passage of Bill 45 in Alberta in December 2013 has been criticized as a threat to media freedom and free expression, and has been labelled a gag law. Critics claim that Section 4 of the bill can be read as constituting a ban on encouraging or advocating a strike.

Defamation remains a criminal offense, punishable by up to five years in prison. In 2009, the Supreme Court delivered a ruling that allowed journalists to avoid liability for alleged defamation if they are able to show that they acted responsibly in reporting a matter of public interest, even if the statements were untrue. Beginning in 2011, fashion mogul Peter Nygard filed a string of suits against the Canadian Broadcasting Corporation (CBC) relating to an allegedly defamatory documentary the corporation aired about him in April 2010. The suits, which include a criminal libel complaint filed against three CBC journalists involved with the documentary and a civil defamation suit, could result in prison sentences for the journalists. In May 2013, the CBC host and producer of the documentary were set to appear in a Winnipeg Court for the criminal charges, but no ruling had been made at year's end.

There are no specific laws that protect confidential sources, and the courts often decide whether or not to respect source confidentiality on a case-by-case basis. Source confidentiality was threatened when Bill C-461, an amendment to the Access to Information Act (ATIA) was introduced to Parliament in February 2013. The bill would alter the current protection afforded to the CBC's "journalistic, creative or programming activities," which are excluded from the ATIA, and would render them exempt, subject to an injury test. As such, the bill would compromise the CBC's ability to safeguard the identity of its sources. The bill was pending final approval in the House of Commons before proceeding to the Senate at the end of the year. In contrast, in March 2013 the Ontario Court of Appeal upheld a lower court decision to protect confidential sources used by a *Globe and Mail* reporter.

Bill C-461 is considered a threat to source confidentiality and does nothing to amend the significant issues in the ATIA's current formulation. Efforts to obtain information from the federal government typically involve long waits, and requests are hampered by federal agencies' ability to grant themselves extensions on

requests. The Canadian Journalists for Free Expression (CJFE) watchdog group reported in 2012 that only half of the requests for official information were being fulfilled within the statutory 30-day deadline. In a separate hindrance on access to official information, the Supreme Court in 2011 upheld Quebec court rules that prohibit media outlets from broadcasting the audio recordings of court proceedings or using cameras and recording equipment beyond designated areas of courthouses. Despite these deficiencies, Canada's information commissioner initiated a consultation in September 2012 to solicit national input on how to update the ATIA, and this process has been responded to with progressive recommendations throughout 2013.

Journalists in Canada are generally free from physical violence or harassment, and there were no notable incidents in 2013. In May 2012, the Office of the Independent Police Review Director (OIPRD) released a report that heavily criticized police conduct during protests surrounding the Group of 20 summit meeting in Toronto in 2010, including police treatment of the media. Journalists had reported having their possessions searched and equipment damaged, and being detained, arrested and physically assaulted. On the third anniversary of the protests—July 3, 2013—CJFE found that reformative measures from OIPRD's recommendations had yet to be implemented, and many of the practices reported are still ongoing.

Both print and broadcast media, including the public broadcaster CBC, are free to express diverse views. The CBC broadcasts in French and English on multiple television and radio stations. Broadcasting rules stipulate that 30 to 35 percent of programming must be Canadian. Internet use is widespread and unrestricted, with nearly 86 percent of the population accessing the internet in 2013.

Concentration of private media ownership remains an issue, with around half of the network media market owned by four corporations: Bell Canada, Shaw, Rogers, and Quebecor Media Inc. Bell Canada, the country's largest telecommunications company, has important stakes in many sectors, including television and radio broadcasting, wireless internet, and mobile services. In June 2013, the Canadian Radio-Television and Telecommunications Commission approved Bell's C\$3.27 billion (US\$3.17 billion) takeover of Astral Media, giving Bell control over 36 percent of the English-language television market and 23 percent of the French. A previously controversial deal, Bell's bid was approved under conditions of extensive divestment from the company's existing television and radio services, but still would entail a high level of vertical integration and media concentration.

2014 Scores

Press Status

Free

Press Freedom Score

(0 = best, 100 = worst)

19

Legal Environment

(0 = best, 30 = worst)

Political Environment

(0 = best, 40 = worst)

8

Economic Environment

(0 = best, 30 = worst)

6